

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RANDY PEREZ,

Plaintiff,

v.

CERVANTES, *et al.*,

Defendants.

Case No. 1:22-cv-00390-ADA-BAM (PC)

ORDER GRANTING DEFENDANTS'
REQUEST TO OPT-OUT OF POST-
SCREENING ADR
(ECF No. 32)

ORDER LIFTING STAY OF PROCEEDINGS

ORDER VACATING APRIL 26, 2023
SETTLEMENT CONFERENCE
(ECF No. 31)

ORDER DIRECTING CLERK OF COURT TO
ISSUE DISCOVERY AND SCHEDULING
ORDER AND CONSENT/DECLINE FORM

Plaintiff Randy Perez ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's first amended complaint against Defendant Cervantes for excessive force in violation of the Eighth Amendment.

On November 16, 2021, the Court identified this case as an appropriate case for the post-screening ADR (Alternative Dispute Resolution) project, and stayed the action to allow the parties an opportunity to settle their dispute before the discovery process begins. (ECF No. 31.) The Court's order granted Defendant time to investigate and determine whether to opt out of the post-screening ADR project.

On March 17, 2023, Defendant filed a notice of opt-out and request to vacate settlement conference. (ECF No. 32.) Defense counsel declares that after investigating Plaintiff's claims and conferring with Plaintiff and counsel's supervisors, defense counsel determined that a settlement conference at this time would be a waste of resources. (*Id.*) Therefore, the stay is lifted, and the April 26, 2023, settlement conference is vacated. This case is now ready to proceed.

If the parties wish to set a settlement conference with the Court at a later date, they should so inform the Court. However, the parties are also reminded that they are not precluded from negotiating a settlement without judicial assistance.

Accordingly, IT IS HEREBY ORDERED that:

1. Defendant's request to opt out of post-screening early dispute resolution, (ECF No. 32), is GRANTED;
2. The stay of this action, (ECF No. 31), is LIFTED;
3. The April 26, 2023 settlement conference is VACATED;
4. The Clerk of the Court is DIRECTED to issue a discovery and scheduling order and a consent/decline form to the parties; and
5. The parties may proceed with discovery pursuant to the discovery and scheduling order to be issued by separate order.

IT IS SO ORDERED.

Dated: March 20, 2023

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE